

Aaron Greenspan (*Pro Se*)
956 Carolina Street
San Francisco, CA 94107-3337
Phone: +1 415 670 9350
Fax: +1 415 373 3959
E-Mail: aaron.greenspan@plainsite.org

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AARON GREENSPAN,
Plaintiff,
v.
OMAR QAZI, SMICK ENTERPRISES, INC.,
ELON MUSK, and TESLA, INC.,
Defendants.

Case No. 3:20-cv-03426-JD

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTIONS TO
DISMISS PLAINTIFF'S FOURTH
AMENDED COMPLAINT**

Judge: Hon. James Donato
Complaint Filed: May 20, 2020
4AC Filed: August 13, 2021

Pursuant to Federal Rule of Evidence 201 and *Rosales-Martinez v. Palmer*, 753 F.3d 890, 894-895 (9th Cir. 2014), Plaintiff Aaron Greenspan requests that the Court incorporate by reference or take judicial notice of the documents identified below, attached to the contemporaneously filed Declaration of Aaron Greenspan as Exhibits. The abbreviation “4AC” refers to the Fourth Amended Complaint.

I. DOCUMENTS SUBJECT TO THIS REQUEST

Exhibit	New Since 4AC	Description	Basis for Notice and/or Incorporation
A	No	Certificates of Registration for United States Copyright Nos. TX 6-890-602 and VA 2-215-227	Publicly available from a government source; 4AC ¶ 194, 213
B	Yes	Redacted Internal Tesla, Inc. Directory Listing for Vivien Hantusch and SMTP Server Log Excerpt Confirming Vivien Hantusch's Active	Publicly available from a reliable source; 4AC ¶ 93-98

		Tesla, Inc. E-Mail Address	
C	Yes	September 27, 2021 <i>Vice</i> Article by Aaron Gordon Entitled, “How Tesla’s ‘Self-Driving’ Beta Testers Protect the Company From Critics”	Publicly available from a reliable source; 4AC ¶ 151-152
D	Yes	@WholeMarsBlog Twitter Thread Dated October 19, 2021	Publicly available from a reliable source; 4AC ¶ 151-152
E	Yes	October 28, 2021 <i>CNN Business</i> Article by Matt McFarland Entitled, “Tesla fan attacks on government’s new safety advisor are ‘calculated,’ says head of safety agency”	Publicly available from a reliable source; 4AC ¶ 151-152
F	Yes	@WholeMarsBlog Twitter Thread Dated November 20, 2021	Publicly available from a reliable source; 4AC ¶ 151-152
G	Yes	\$136.9 Million Jury Verdict Filed October 4, 2021 in <i>Di-az v. Tesla, Inc.</i> , California Northern District Court Case No. 3:17-cv-06748-WHO Regarding “Hostile Work Environment” at Tesla, Inc.	Publicly available from a government source; 4AC ¶ 151, 181
H	No	Excerpts of Internal Tesla, Inc. Documents Disclosed by Whistleblower Martin Tripp	Publicly available from a government source; 4AC ¶ 245 (Issue 11)
I	No	California Department of Motor Vehicles Documents Regarding Tesla, Inc. Autonomous Driving Features	Publicly available from a government source; 4AC ¶ 245 (Issue 7)
J	Yes	August 18, 2021 Letter from Two United States Senators to the Federal Trade Commission Regarding False Advertising By Tesla, Inc.	Publicly available from a government source; 4AC ¶ 245 (Issues 7, 10)
K	Yes	Select Letters and Special Order Sent to Tesla, Inc. by the National Highway Traffic Safety Administration from August 31, 2021 Through October 12, 2021	Publicly available from a government source; 4AC ¶ 151, 245 (Issues 7, 10)
L	Yes	December 6, 2021 <i>New York Times</i> Article by Cade Metz and Neal E. Boudette Entitled, “Inside Tesla as Elon Musk Pushed an Unflinching Vision for Self- Driving Cars”	Publicly available from a reliable source; 4AC ¶ 245 (Issues 7, 10)
M	No	Response to Securities and Exchange Commission Freedom of Information Act Request No. 21-01009-FOIA	Publicly available from a government source; 4AC ¶ 248-249
N	No	Redacted Department of Labor Form ETA-9042 Submitted by Panasonic Solar North America Dated March 6, 2020	Publicly available from a government source; 4AC ¶ 245 (Issue 8)
O	Yes	December 6, 2021 <i>Reuters</i> Article by Hyunjoo Jin Entitled, “Exclusive: SEC probes Tesla	Publicly available from a reliable source; 4AC

		over whistleblower claims on solar panel defects”	¶ 245 (Issue 12), 249
P	Yes	October 28, 2021 Federal Trade Commission Press Release Entitled, “FTC to Ramp up Enforcement against Illegal Dark Patterns that Trick or Trap Consumers into Subscriptions” and Associated Enforcement Policy Statement	Publicly available from a government source; 4AC ¶ 245 (Issue 2)
Q	Yes	November 27, 2021 CNBC Article by Lora Kolodny Entitled, “Elon Musk urges Tesla employees to reduce cost of vehicle deliveries”	Publicly available from a reliable source; 4AC ¶ 245 (Issues 3-4)
R	Yes	October 20, 2021 S&P Global Market Intelligence Article by J. Holzman and Susan Dlin Entitled, “\$22.6B Mexican lithium mine bogs down in drug cartel, tech risks”	Publicly available from a reliable source; 4AC ¶ 248-249
S	No	Delaware Court of Chancery Case No. 2018-0408-JRS, <i>Richard J. Tornetta v. Elon Musk</i> Hearing Transcript Excerpt	Publicly available from a government source; 4AC ¶ 248-249
T	No	Excerpts from Tesla, Inc. Securities and Exchange Commission Filings	Publicly available from a government source; 4AC ¶ 245

II. FACTUAL BASIS

Judicial notice is proper because the documents’ existence and authenticity cannot reasonably be questioned. Exhibits marked as “Yes” in the “New Since 4AC” column did not exist or were not accessible to Plaintiff at the time the 4AC (ECF No. 131) was filed on August 13, 2021 and could therefore not be referenced previously.

Tesla Defendants do not dispute that posts on Twitter are properly subject to judicial notice. ECF No. 143-10. Notably, Tesla Defendants also admit that PlainSite is a “Reliable Source.” *Id.* at 4-5. This contradicts their brief (alleging supposedly “wildly speculative and conspiratorial assertions”). ECF No. 143-1:24.

Finally, the Court has explicitly permitted this Request for Judicial Notice, stating, “If a motion to dismiss the federal securities claims is filed, Greenspan may file a request for judicial notice with his opposition that contains SEC filings and other documents that may be properly considered for the securities allegations. In all events, Greenspan should be assured that he will

1 have ample opportunity to ask the Court to consider materials which may be appropriately
2 noticed or otherwise taken up for a motion to dismiss.” ECF No. 130 at 3:22-26.

3 **III. CONCLUSION**

4 For the aforementioned reasons, Plaintiff respectfully requests that the Court take judicial
5 notice of the above referenced documents.

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7 Dated: December 9, 2021

Respectfully submitted,

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11 Aaron Greenspan
12 956 Carolina Street
13 San Francisco, CA 94107-3337
14 Phone: +1 415 670 9350
15 Fax: +1 415 373 3959
16 E-Mail: aaron.greenspan@plainsite.org